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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/706,464
Filing Date: November 12, 2003
Appellant(s): KUEHR-MCLAREN ET AL.

David G. Kuehr-McLaren
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 10, 2006 appealing from the Office action mailed May 4, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-12 are rejected under 35 U.S.C. 102(e) as being anticipated by

Epling (U.S. Patent Application Publication No. 2005/0091101).

Referring to claim 1. Epling discloses a method for conducting electronic commerce transactions among participants in an E-marketplace, comprising the steps of:

- Obtaining privacy-use information for each participant (paragraph 27 & figure 1);
- Comparing the privacy use information for each participant to determine matches (figure 2);
- Only allowing transactions to occur between participants who have matching privacy use information (paragraph 11 and figure 3). The examiner notes that Epling discusses stopping any transactions before they occur if the privacy use information does not match.

Referring to claim 2. Epling further discusses a method wherein said obtaining step comprises at least the step of requiring each participant in the E-marketplace to present to the E-marketplace their P3P policy (paragraph 9 & figure 2).

Referring to claim 3. Epling further discloses a method wherein said obtaining step comprises at least the steps of:

- Presenting each participant with questions that elicit their privacy-use information (paragraph 27); and
- Storing the elicited privacy-use information for use in said comparing step (paragraph 29).

Referring to claim 4. Epling further discloses a method wherein said privacy-use information includes at least one of: use information pertaining to elicited e-mail addresses; use information pertaining to financial; use of personal information; use of business information, and the delivery of advertising to the participant (paragraph 18).

Referring to claims 5-8. Claims 5-8 are rejected under the same rationale as set forth above in the rejection of claims 1-4. See also figure 4.

Referring to claims 9-12. Claims 9-12 are rejected under the same rationale as set forth above in the rejection of claims 1-4. See also figure 4 and paragraph 61.

(10) Response to Argument

Applicant's arguments filed October 10, 2006 have been fully considered but they are not persuasive.

Applicant contests on page 5 of the brief that the examiner is incorrect in asserting that Epling teaches comparing privacy use information for each participant to

determine matches as well as only allowing transactions to occur between participants who have matching privacy use information. Applicant further cites figure 2 of Epling as evidence that Epling does not allow transactions with non-matching privacy policies.

The examiner responds by noting that block 208 of figure 2 and paragraph 38 of Epling clearly disclose comparing privacy-use information, "At block 208, the trust engine 116 compares the concerns 120 with the statements 112 included in the privacy policy file 110." Furthermore, figure 2 discloses displaying an indicator to the user that their privacy policy information conflicts with that of a web site's policy. Paragraph 43 of Epling discloses, "If the comparison turns up any matches ("Yes" branch, block 214), then an indicator is set at block 216. This indicator may be a small icon placed on a toolbar of the user's display, or it could be a popup box configured to really get the user's attention. If no matches are found-indicating that the Web site privacy policies do not conflict with the user's concerns- ("No" branch, block 214), then the user continues to browse the site at block 224". Clearly, Epling anticipates only allowing transactions to occur between participants who have matching privacy-use information because a user is barred from browsing a web site and notified in an indicator that their privacy policy does not match that of the web sites.

Applicant further contests on page 6 of the brief that if the user opts to continue to the web site, the user never sees the results of the privacy policy comparison by citing paragraph 44 of Epling. The examiner disagrees because paragraph 42 indicates this is only one embodiment of Epling. Paragraph 40 describes the general

embodiment wherein the privacy policy comparison is always displayed to the user and figure 3 further expands upon this embodiment.

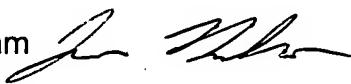
Applicant further contests on page 6 of the brief that by giving the user the option to browse the web site after viewing the policy conflicts Epling teaches away from the present claimed invention. The examiner disagrees because Epling has already stopped a transaction from occurring as discussed above when the privacy policies of participants do not match. Furthermore, by displaying a comparison of non-matching privacy policies to a user and then giving the option to proceed to the web site, Epling only allows transactions after the user has obtained and compared the web sites privacy policy with their own. The user is matching their privacy policy with the web sites by agreeing to proceed at block 222 of figure 2 in Epling. For emphasis, paragraph 57 of Epling discloses, "As a result of the processes described in figure 2 and figure 3, the user is presented with a set of user-focused privacy concerns instead of a company-based set of privacy concerns. As a result, furtive attempts to hide unpopular usage of personal data are defeated and the user can quickly determine if the user wants to access the Web site."

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jason B. Dunham 

Patent Examiner

January 5, 2007

Conferees:

Vincent Millin, Appeal Conference Specialist TC 3600 

Jeff Smith, SPE AU 3625 